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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,085	11/26/2003	David Mitchell	181-149	7788

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EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,085

Applicant(s)

MITCHELL, DAVID

Examiner

Khoi D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, as presently understood and give the broadest reasonable interpretations, is rejected under 35 U.S.C. 102(b) as being anticipated by Long (4068687).

The Long reference discloses a filling apparatus attachable to a neck (14) of a fluid reservoir (13). The filling apparatus has a container (not shown underground gasoline tank), a stem (40) extending from the container via a conduit (10,11), a first passage (31) for allowing fluid (gas) to flow from the container to the reservoir, a second passage (about 40c) for allowing air (vapor) to be introduced into the container, a trigger or tap (20,21) movable between an ON and OFF position, and a mount (45) adapted to releasably secure the filling apparatus to the fluid reservoir.

3. Claims 1, 2, 7 and 13-15, as presently understood and give the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Matthews (243148).

Regarding claim 1, the Matthews reference discloses a filling apparatus attachable to a neck of a fluid reservoir (F). The filling apparatus has a container

(B), a stem (about J) extending from the container, a first passage (i) for allowing fluid to flow from the container to the reservoir, a second passage (g) for allowing air to be introduced into the container, a trigger or tap (K,L) movable between an ON and OFF position, and a mount (about n) adapted to releasably secure the filling apparatus to the fluid reservoir.

Regarding claim 2, a tube (I) forms an extension to the second passage (g) and terminates adjacent to and short of the base of the container.

Regarding claim 7, as schematically shown in Figure 1, the stem is screw threaded along a portion of its length (the upper portion of the stem J appears to have a screw-threaded portion for attaching the stem to the container).

Regarding claims 13-15, the tap further includes a housing and an operator (Figs. 2 and 3). The housing is formed integrally with the stem and the operator has an inner face with two cavities (Fig. 3) which in the ON position of the tap allow fluid to flow through the passages.

4. Claims 1 and 3-7, as presently understood and give the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Turner (2463922).

Regarding claim 1, the Turner reference discloses a filling apparatus attachable to a neck of a fluid reservoir (Fig. 2). The filling apparatus has a container (10), a stem (Fig. 1) extending from the container, a first passage (46) for allowing fluid to flow from the container to the reservoir, a second passage (the center passage leading the hole 44) for allowing air to be introduced into the

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container, a tap (20,24,26) movable between an ON and OFF position, and a mount (52,54) adapted to releasably secure the filling apparatus to the fluid reservoir.

Regarding claim 3, the Turner filling apparatus (as schematically shown in Figure 1) includes a threaded cap (14) with a skirt (the upward extending portion of the cap) for engagement with a threaded neck (12) of the container (10), and a wall (see added notation in Fig. 2).

Regarding claim 4, as schematically shown in Figure 1, the stem is formed integrally with and project from the wall.

Regarding claim 5, as schematically shown in Figure 1, the passages are parallel to one another.

Regarding claim 6, as schematically shown in Figure 1, the stem includes a free end (the tapered portion) which terminates at an inclined angle.

Regarding claim 7, the stem is screw threaded (Fig. 1) along a portion of its length.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-6, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews (as discussed above).

Regarding claim 3, the Matthews filling apparatus (as schematically shown in Figure 1) includes a cap (see added notation in Fig. 1) with a skirt (the upward extending portion of the stem) for engagement with a neck of the container (see added notation in Fig. 1), and a wall (see added notation in Fig. 1). Even though the Matthews reference does not specifically disclose that the stem cap is screw-threaded to the container neck as claimed, it would have been obvious for one skill in the art to recognize that (a) the cap is screw-threaded to the container neck (base on the schematic drawing of Fig. 1), and (b) such connection is known in the art of fluid dispensing (as evidence support by the cited prior art such as Campbell, Turner, Huskey and so on).

Regarding claim 4, as schematically shown in Figure 1, the stem is formed integrally with and project from the wall.

Regarding claim 5, as schematically shown in Figure 1, the passages are parallel to one another.

Regarding claim 6, as schematically shown in Figure 1, the stem includes a free end (the tapered portion) which terminates at an inclined angle.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turner (as discussed above).

The Turner reference DIFFERS in that the mount has an rectangular portion as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to modified the Turner reference by employing a portion (about 52) of the mount to have a rectangular shape. Such

modification would be considered a choice of a preferred shape for a mount especially since applicant does not disclose any advantage of the why a portion of the mount has to have a rectangular shape.

Allowable Subject Matter

8. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Campbell ('096), Huskey and Campbell ('079) were cited to show a filling/dispensing apparatus having a container, a stem, a first passage, a second passage and a tap. Dickerson and Donally were cited to show a filling apparatus having a container, a stem, a first passage, a second passage and a mount. Pellerino et al. and Laub were cited to show a filling apparatus having a stem a free end with an inclined angle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Patent Examiner
Art Unit 3751

HK
06/03/04